AMENDED IN ASSEMBLY JUNE 20, 2002 AMENDED IN SENATE APRIL 17, 2002

SENATE BILL

No. 1982

Introduced by Senator Perata

February 22, 2002

An act to amend Section 15432 of the Government Code, to amend Sections 1502, 1523.1, and 1531.2 of, and to repeal and add Section 1502.2 of, the Health and Safety Code, relating to community care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1982, as amended, Perata. Community care facilities: definition.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of community care facilities, as defined, by the State Department of Social Services.

Existing law defines a community care facility to include an adult day care facility as a facility that provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Under existing law, a community care facility also includes an adult day support center, which is a community-based group program designed to meet specified needs of functionally impaired adults, in a protective setting on less than a 24-hour basis.

This bill would delete the definition of an adult day care facility for purposes of the act, and would revise the definition of an adult day support center to mean any community-based facility that provides SB 1982 **- 2 —**

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nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis. The bill would require any facility that is licensed as an adult day care facility on January 1, 2003, to be redesignated as an adult day support center, and to meet the licensing requirements applicable to an adult day support center no later than January 1, 2005 also redesignate adult day support centers as adult day programs.

This bill would require the department to adopt regulations to combine the existing categories of adult day care centers and adult day support centers into the new adult day program category. The bill would make additional conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- SECTION 1. (a) The Legislature finds and declares as 1 2 follows:
 - (1) Over the past 20 years, new models of service have emerged for persons with developmental disabilities, elders with functional or cognitive impairments, and other adults needing day time assistance outside of the home.
 - (2) Day programs provide a wide variety of services, ranging from respite for caregivers to independent living skill training for persons with developmental disabilities.
 - (3) This diversity of programs is a major strength of California's community-based services, which are designed to meet the individual needs of persons using these services.
 - (4) Licensing rules and regulations have not kept pace with changing community practices and service models.
 - (5) There is a need to modernize the rules governing the licensure of adult day programs in keeping with the state's policy to offer consumers choices and to provide services in the least restrictive setting.
- (6) The current separate community care licensing categories 20 for adult day care and adult day support programs create unnecessary complexity and confusion for consumers, providers, and regulators.

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(b) Therefore, it is the intent of the Legislature in enacting this act to improve consumer access to community care licensed programs by consolidating the licensure categories of adult day care and adult day support and associated regulations.

- (c) (1) The department shall adopt regulations, in consultation with providers, consumers, and other interested parties, to combine adult day care and adult day support centers licensing categories into one category, which shall be designated adult day programs.
- (2) The consolidated regulations shall take into account the diversity of consumers and their caregivers, and the role of licensing in promoting consumer choice, health and safety, independence, and inclusion in the community.
- (3) The department shall also take into account the diversity of existing programs designed to meet unique consumer needs, including, but not limited to, programs serving elders with cognitive or physical impairments, non-facility-based programs serving persons with developmental disabilities, respite-only programs, and other programs serving a unique population.
- *SEC.* 2. Section 15432 of the Government Code is amended to read:
- 15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:
- (a) "Act" means the California Health Facilities Financing Authority Act.
- (b) "Authority" means the California Health Facilities Financing Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.
- (c) "Cost," as applied to a project or portion of a project financed under this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a

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period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the cost of funding or financing noncapital expenses, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses of funding or financing or necessary or incident to determining the feasibility of constructing, any project or incident to the construction or acquisition or financing of any project.

- (d) "Health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, or developmental disability, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, except in the cases of county outpatient facilities, adult day support eenters programs, as defined under paragraph (2) of subdivision (a) of Section 1502 of the Health and Safety Code, which provide services to developmentally disabled or mentally impaired persons, community clinics, as defined in paragraph (6), and child day care facilities, as defined in paragraph (10), and includes all of the following types:
- (1) A general acute care hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.
- (2) An acute psychiatric hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

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(3) A skilled nursing facility which is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

- (4) An intermediate care facility which is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.
- (5) A special health care facility which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.
- (6) A community clinic which is a clinic operated by a tax-exempt nonprofit corporation which is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, which may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic. However, the licensee of any community clinic so licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic.
- (7) An adult day health center which is a facility, as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.
- (8) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the facility under that section).

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 (9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

- (10) A child day care facility operated in conjunction with a health facility. A child day care facility is a facility, as defined in Section 1596.750 of the Health and Safety Code. For purposes of this paragraph, "child" means a minor from birth to 18 years of age.
- (11) An intermediate care facility/developmentally disabled habilitative which is a health facility, as defined under subdivision (e) of Section 1250 of the Health and Safety Code.
- (12) An intermediate care facility/developmentally disabled-nursing which is a health facility, as defined under subdivision (h) of Section 1250 of the Health and Safety Code.
- (13) A community care facility which is a facility, as defined under subdivision (a) of Section 1502 of the Health and Safety Code, which provides care, habilitation, rehabilitation, or treatment services to developmentally disabled or mentally impaired persons.
- (14) A nonprofit community care facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, other than a facility which, as defined in that subdivision, is a residential facility for the elderly, a foster family agency, a foster family home, a full service adoption agency, or a noncustodial adoption agency.
- (15) A nonprofit accredited community work-activity program, as specified in subdivision (e) of Section 19352 and Section 19355 of the Welfare and Institutions Code.
- (16) A community mental health center, as defined in paragraph (3) of subdivision (b) of Section 5667 of the Welfare and Institutions Code.
- "Health facility" includes a clinic which is described in subdivision (*l*) of Section 1206 of the Health and Safety Code.
- "Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses or interns residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility,

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maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of the health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

- (e) "Participating health institution" means a city, city and county, county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project or of working capital as provided in this part. "Participating health institution" also includes, for purposes of the California Health Facilities Revenue Bonds (UCSF-Stanford Health Care) 1998 Series A, the Regents of the University of California.
- (f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping, or funding or financing of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.
- (g) "Revenue bond" means any bond, warrant, note, lease, or installment sale obligation that is evidenced by a certificate of participation or other evidence of indebtedness issued by the authority.
- (h) "Working capital" means moneys to be used by, or on behalf of, a participating health institution to pay or prepay maintenance or operation expenses or any other costs that would be treated as an expense item, under generally accepted accounting principles, in connection with the ownership or operation of a health facility, including, but not limited to, reserves for maintenance or operation expenses, interest for not to exceed one year on any loan for working capital made pursuant to this part, and reserves for debt service with respect to, and any costs necessary or incidental to, that financing.

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SEC. 2.

2 SEC. 3. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

- (a) "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:
- (1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.
- (2) "Adult day support center" program" means any community-based facility or program that provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.
- (3) "Therapeutic day services facility" means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.
- (4) "Foster family agency" means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.
- (5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent

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or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2.

- (6) "Small family home" means any residential facility, in the licensee's family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.
- (7) "Social rehabilitation facility" means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.
- (8) "Community treatment facility" means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

- (9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:
- (A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

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1 (B) Assesses the birth parents, prospective adoptive parents, or 2 child.

- (C) Places children for adoption.
- (D) Supervises adoptive placements.
- 5 Private full-service adoption agencies shall be organized and 6 operated on a nonprofit basis.
 - (10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:
 - (A) Assesses the prospective adoptive parents.
 - (B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.
- (C) Cooperatively supervises adoptive placements with a 16 full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

- (11) "Transitional shelter care facility" means any group care facility that provides for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Program components shall be subject to program standards developed by the State Department of Social Services pursuant to Section 1502.3.
- (12) "Transitional housing placement facility" means a community care facility licensed by the department pursuant to Section 1559.110 to provide transitional housing opportunities to persons at least 17 years of age, and not more than 18 years of age unless the requirements of Section 11403 of the Welfare and Institutions Code are met, who are in out-of-home placement under the supervision of the county department of social services or the county probation department, and who are participating in an independent living program.
- (b) "Department" or "state department" means the State Department of Social Services.
 - (c) "Director" means the Director of Social Services.
- 39 SEC. 3.

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1 SEC. 4. Section 1502.2 of the Health and Safety Code is 2 repealed.

SEC. 4. Section 1502.2 is added to the Health and Safety Code, to read:

1502.2. Any facility that is licensed as an adult day care facility on January 1, 2003, shall be redesignated as an adult day support center, as defined in paragraph (2) of subdivision (a) of Section 1502, and shall meet the licensing requirements applicable to an adult day support center no later than January 1, 2005.

SEC. 5. Section 1523.1 of the Health and Safety Code is amended to read:

1523.1. (a) (1) A fee adjusted by facility and capacity shall be charged by the department for the issuance of an original license or special permit or for processing any application therefor. After initial licensure, the fee shall be charged by the department annually on each anniversary of the effective date of the license or special permit. The fee is for the purpose of financing a portion of the application and annual processing costs and the activities specified in subdivision (b). The fee shall be assessed as follows:

	Fee Schedule		
		Original	
Facility Type	Capacity	Application	Annual
Foster Family and Adop-		\$1,000	\$1,000
tion Agencies			
Other Community	1–6	\$300	\$300
Care Facilities,	7–15	\$450	\$450
Except Adult Day Support	16–49	\$600	\$600
Centers	50+	\$750	\$750
Adult Day Support	1–15	\$0	\$50
Centers Programs	16–30	\$100	\$100
	31–60	\$200	\$200
	61–75	\$250	\$250
	76–90	\$300	\$300
	91-120	\$400	\$400
	121+	\$500	\$500

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 (2) Certified family homes of foster family agencies and foster family homes shall be exempt from the fees imposed pursuant to this subdivision.

- (3) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a facility licensed under this chapter which serves six or fewer persons.
- (b) (1) The revenues collected from licensing fees pursuant to this section shall be utilized by the department to fund increased assistance and monitoring of facilities with a history of noncompliance with licensing laws and regulations pursuant to this chapter, and other administrative activities in support of the licensing program, when appropriated for these purposes. The revenues collected shall be used in addition to any other funds appropriated in the Budget Act in support of the licensing program.
- (2) The department shall not utilize any portion of these revenues sooner than 30 days after notification in writing of the purpose and use of this revenue, as approved by the Director of Finance, to the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the committee in each house that considers appropriations for each fiscal year. For fiscal year 1992–93 and thereafter, the department shall submit a budget change proposal to justify any positions or any other related support costs on an ongoing basis.
- (c) A facility may use a bona fide business check to pay the license fee required under this section.
- (d) Failure to pay required license fees, including the finding of insufficient funds to cover bona fide business checks submitted for the purpose shall constitute grounds for denial of a license or special permit or forfeiture of a license or special permit.
- SEC. 6. Section 1531.2 of the Health and Safety Code, as added by Chapter 729 of the Statutes of 1998, is amended to read:
- 1531.2. (a) Upon the filing by the department of emergency regulations with the Secretary of State, an adult day support center, as defined in Division 6 of Title 22 of the California Code of Regulations, or Section 1502, that provides care and supervision for adults with Alzheimer's disease and other dementias may install for the safety and security of these persons secured perimeter fences or egress control devices of the time-delay type on exit doors if they meet all of the requirements for additional

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safeguards required by those regulations. The initial adoption of new emergency regulations on and after January 1, 1999, shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

- (b) As used in this section, "egress control device" means a device that precludes the use of exits for a predetermined period of time. An egress control device shall not delay any client's departure from the facility for longer than 30 seconds. Facility staff may attempt to redirect a client who attempts to leave the facility.
- (c) A facility that installs an egress control device pursuant to this section shall meet all of the following requirements:
- (1) The facility shall be subject to all fire and building codes, regulations, and standards applicable to adult day support centers using egress control devices or secured perimeter fences and before using an egress control device shall receive a fire clearance from the fire authority having jurisdiction for the egress control devices.
- (2) The facility shall require any client entering the facility to provide documentation of a diagnosis by a physician of Alzheimer's disease or other dementias, if such a diagnosis has been made. For purposes of this section, Alzheimer's disease shall include dementia and related disorders that increase the tendency to wander, decrease hazard awareness, and decrease the ability to communicate.
- (3) The facility shall provide staff training regarding the use and operation of the egress control devices used by the facility, the protection of clients' personal rights, wandering behavior and acceptable methods of redirection, and emergency evacuation procedures for persons with dementia.
- (4) All admissions to the facility shall continue to be voluntary on the part of the client or with the lawful consent of the client's conservator or a person who has the authority to act on behalf of the client. Persons who have the authority to act on behalf of a client may include the client's spouse, relative or relatives, or designated care giver or care givers.
- (5) Any client entering a facility pursuant to this section who does not have a conservator or does not have a person with the authority to act on his or her behalf shall sign a statement of

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voluntary entry. The facility shall retain the original statement in the client's file at the facility.

- (6) The use of egress control devices or secured perimeter fences shall not substitute for adequate staff. Staffing ratios shall at all times meet the requirements of applicable regulations.
- (7) Emergency fire and earthquake drills shall be conducted at least once every three months, or more frequently as required by a county or city fire department or local fire prevention district. The drills shall include all facility staff and volunteers providing client care and supervision.
- (8) The facility shall develop a plan of operation approved by the department that includes a description of how the facility is to be equipped with egress control devices that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143. The plan shall include, but not be limited to, all of the 16 following:
 - (A) A description of how the facility will provide training to staff regarding the use and operation of the egress control device utilized by the facility.
 - (B) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code.
 - (C) A description of the facility's emergency evacuation procedures for persons with Alzheimer's disease and other dementias.
 - (d) This section does not require an adult day care facility or an adult day support center to use secured perimeters or egress control devices in providing care for persons with Alzheimer's disease or other dementias.
 - (e) The department shall adopt regulations to implement this section in accordance with those provisions of the Administrative Procedure Act contained in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- 35 (f) The State Fire Marshal may also adopt regulations to implement this section.